

Minutes
Nevada State Emergency Response Commission (SERC)

**Joint Meeting of the
Legislative Committee and Policy Committee**

*1675 E. Prater Way, Suite 103
Sparks, Nevada*

March 13, 2008

Legislative Committee

Members Present

Jim Reagan, Chair
Carl Byrd
Susan Crowley (teleconferenced)
Stacey Giomi

Members Absent

Senator Nolan

Staff

Suzanne Adam
Karen Pabón
Mike Jensen

Policy Committee

Members Present

Jim O'Brien, Chair
Larry Farr
Jim Reagan

Members Absent

Tom Porta

I. Call to Order

Jim Reagan called the meeting to order at 9:00 a.m.

II. Introductions

Members and staff introduced themselves as shown above. A quorum was present for both committees.

III. *Approval of Meeting Minutes

A. *Approval of the February 15, 2007 Legislative Committee meeting minutes

Susan Crowley made a motion to approve the minutes of the February 15, 2007 meeting. Stacey Giomi seconded the motion which was approved unanimously.

B. *Approval of the December 20, 2007 Policy Committee meeting minutes

Mr. Reagan made a motion to approve the minutes of the December 20, 2007 meeting. Larry Farr seconded the motion which was approved unanimously.

Mr. Reagan confirmed since this was a joint meeting of two committees, items needing to be voted on could be voted on by members of both committees.

IV. Old Business

A. *Discussion/Review/Recommendation of possible revision to SERC Policy 8.2, Grant Application, Grant Awards, and 8.2a, License Plate Funding Grant Applications, Grant Awards, regarding consultant costs at \$450 per day (Policy Committee)

Karen Pabón advised, after the December 20, 2007 Policy Committee meeting, she was asked to contact State Purchasing and find out how they handle doing contract costs for services. Ms. Pabón contacted other granting agencies and reported to the Committee. State Purchasing advised there is no amount to completing a sole source request or any application of \$450 as a maximum amount. There is a requirement of the agency to obtain itemized, comparable bids and to justify the value of the contract. With SERC, the subgrantee is responsible in justifying the cost. State Purchasing considers the consequence of denial of any contract request. They use a common sense approach to the cost when approving any sole source request. They perform market research to determine whether the cost is in line with the market, and ensure everyone complies with NRS, NAC and the State Administrative Manual (SAM) requirements. A discussion ensued. Mr. O'Brien stated it should be required for LEPCs to get at least 3 bids. Mr. Farr would also like the bids itemized.

Mr. Reagan made a motion to recommend staff assist in developing language which would include two paragraphs: one applying to consultants and services and the second applying to training fees with the first being reasonable cost, itemized comparisons, costs being presented for contract and consultant services. SERC Policy 8.2 and 8.2a also need to be revised: Policy 8.2, under Policy A.1.a., the third paragraph, and Policy 8.2a under Policy A.1.b. Mr. Giomi seconded the motion.

A discussion ensued about the motion. Mr. Reagan withdrew the motion. Mr. Farr made a motion to recommend deleting the \$450 per day for consultants from SERC policies 8.2 and 8.2a, and requiring applicants to present competitive, itemized bids for consultant services. Mr. Giomi seconded the motion which was approved unanimously. Staff was directed to work on the wording and changes to the policies and present at the SERC Quarterly meeting.

V. New Business

A. *Discussion/Review/Recommendation of possible revision to the Nevada Administrative Codes (NACs), sections 459.9912 through 459.99189 relating to SERC processes. For more information regarding some of the possible revisions to the NACs to be discussed by these committees, see Attachment A which is attached to this agenda.

Mr. Reagan referred to Attachment A, which is a list of discussion points regarding possible changes to the NACs.

NAC 459.99131 – Powers and duties of Commission.

There was a question as to whether the duties of the various committees need to be in the NACs. A discussion ensued. Mr. Farr stated the NRS gives power of duties and the NACs explain how the duties are to be carried out.

No action was taken.

Definitions/Glossary Page –

A discussion ensued as to whether any of the definitions should be placed in the NACs, resulting in a negative response.

No action was taken.

NAC 459.99132 – Local emergency planning committees.

Some of the duties in this NAC are required by the Emergency Preparedness and Community Right-to-Know Act (EPCRA) and some by SERC policy. A discussion ensued as to whether these duties need to be listed in the NACs. No changes were recommended

No action was taken.

NAC 459.99132(3) – Annually submit to the Bylaws Committee a copy of its bylaws and a list of the members of the local emergency planning committee.

A discussion ensued. Mr. Giomi made a motion to recommend the Policy Committee amend SERC Policy 8.3 by requiring LEPCs to annually submit a copy of their bylaws and membership list. Mr. Farr seconded the motion which was approved unanimously.

NAC 459.99137 – Dissemination of application forms for grants.

A discussion ensued regarding the need to require this in the NACs. Jim O'Brien advised he felt the NAC was fine the way it is.

No action was taken.

NAC 459.99135 – Authority of Commission: Grants of money from Contingency Account for Hazardous Materials.

Mr. Reagan stated NRS 482.379365 does not direct or specify what must or must not be done with the United We Stand (UWS) license plate funds received and deposited into the Contingency account. A question arose as to whether the committees want to add to the NACs the restrictions the UWS funds may be used for. Ms. Pabón stated there is direction for use of funds in NRS 459.735(4) and NAC contradicts this NRS. The UWS funds must be expended solely for combating terrorism.

Ms. Pabón recommended a paragraph separating NRS 482 from each of these sections.

Mr. O'Brien made a motion to recommend adding a paragraph to NAC 459.99135 separating funds derived from NRS 482.379365 from the other funding sources. Mr. Giomi seconded the motion. A discussion ensued. A vote was taken. Motion carried unanimously.

Mr. Reagan advised NAC 459.99138, NAC 459.99139, NAC 459.99141(1), NAC 459.99142, NAC 459.99143(1), NAC 459.99143(2), NAC 459.99161, NAC 459.99163(1), NAC 459.99164, NAC 459.99171, and NAC 459.99171(2) are covered under the above motion due to their relationship with the UWS license plate funds.

NAC 459.99171(2) – Completion and submission of certain forms

This NAC is contradicted by SERC policy. Mr. Giomi made a motion to recommend the Policy Committee modify Policy 8.3 to require the filing of a Compliance Certification form from State agencies submitting a UWS application. Mr. Byrd seconded the motion. A discussion ensued. A vote was taken. Motion carried unanimously.

NAC 459.99136(1) – Requests for funding: Determination and approval of amount; scope.

SERC Policy 8.2 changed to allow LEPC approval of a grant application after submission but before funding. A discussion ensued regarding change to the NAC. Mr. O'Brien suggested to change the word "Before" at the beginning of the sentence to the word "When," and "may submit" to "submits." In addition, add "or ratify prior action" after "determine and approve." The last part of the sentence "the amount of funding it will request in the application," would change to read "the amount of funding it is requesting in the application."

Mr. Giomi made a motion to recommend the above changes to NAC 459.99136(1). Mr. O'Brien seconded the motion. A vote was taken with Mr. Farr opposing. Motion carried.

NAC 459.99141(2) – Requests for money from proceeds of certain fees to pay for training.

Mr. Giomi made a motion to recommend to include the provision of the Emergency Management denial for UWS funds and to include the training funds requested to attend a conference do not need to be denied by either the Division of Emergency Management or the State Fire Marshal's Division. Mr. O'Brien seconded the motion which was approved unanimously.

NAC 459.99142; 99146; 99164; and 99167 – Requests for money from proceeds of certain fees to pay for services of consultant or contractor.

The committees discussed a possible change to the NACs regarding the \$450 consultant fee.

Mr. Giomi made a motion to recommend changing the NACs to reflect changes in SERC Policy 8.2 and 8.2a as proposed on Item IV.A. of this agenda. Mr. Farr seconded the motion which was approved unanimously.

NAC 459.99148 – Documentation of awards of money.

A discussion ensued as to whether the detail of documenting a grant award needs to be in the NACs. No recommendation was made.

No action was taken.

NAC 459.99151(4); 99152(3); 99172(4); and 99173(3) – Receiving reimbursement, advance funding.

A discussion ensued as to whether the details of these sections need to be in the NACs, and if so, the wording of payment 1 day after approval should to be consistent between regulations. No recommendation was made.

No action was taken.

NAC 459.99156(1) – Authorization and procedure to revise use of money after award of grant.

The committees discussed whether to change the word “may” to “must” before the word submit in NAC 459.99156(1).

Mr. O’Brien made a motion to recommend changing the word “may” to “must” or “shall” before the word submit in section 1 of NAC 459.99156. Mr. Giomi seconded the motion which was approved unanimously.

NAC 459.99156(2) – Authorization and procedure to revise use of money after award of grant.

A discussion ensued as to whether a provision should be added for grant changes less than 10%, resulting in a negative response.

No action was taken.

NAC 459.99156(3) – Authorization and procedure to revise use of money after award of grant.

A discussion ensued as whether the word “hearing” should be changed to “meeting.” Mr. Reagan stated he researched this and it should be convene meetings and schedule hearings.

Mr. O'Brien made a motion to recommend changing NAC 459.99156(3) to delete "schedule hearing" and add "convene meeting." Mr. Farr seconded the motion. Ms. Pabón advised convening a meeting means to actually hold the meeting. Scheduling a meeting means the meeting could be held at a later date.

Mr. O'Brien amended his motion to include "schedule a meeting" in section 3 of NAC 459.99156. Mr. Farr seconded the motion which was approved unanimously.

NAC 459.99156(4) – A local emergency planning committee may appeal any action taken pursuant to this section to the Commission.

This section is duplicative as appeals are addressed in NAC 459.99189.

Mr. Farr made a motion to recommend deleting NAC 459.99156(4). Mr. Giomi seconded the motion which was approved unanimously.

NAC 459.99161; 99162; 99163; 99164; 99165; 99166; 99168; 99169; 99171; 99172; 99173; 99174; 99177 – These are all in the "Funding for State Agencies" and include the support of "local personnel."

A discussion ensued about the wording for allocated fees collected given to state agencies for training. Ms. Pabón suggested changing the wording for "equipping state and local personnel" for the state agencies. Mr. Reagan advised there could be an instance when a state agency is using the funds for a program where local personnel would be trained. No recommendation was made.

No action was taken.

NAC 459.99163(2) – Requests for money from proceeds of certain fees to pay for training.

Training under UWS funding must be requested and declined by DEM. Any training funds requested to attend a conference do not need to be requested of and denied by DEM or SFM.

Mr. O'Brien made a motion to recommend including the provision of the Division of Emergency Management denial of training when requesting UWS funds and to include the training funds requested to attend a conference do not need to be denied by either the Division of Emergency Management or the State Fire Marshal's Division. Mr. Giomi seconded the motion which was approved unanimously.

NAC 459.99169 – Documentation of allocations of money

This item was discussed under NAC 459.99148 of this agenda. No recommendation was made.

No action was taken.

NAC 459.99176 – Annual progress reports

A discussion ensued in regards to whether annual progress reports need to be kept in the NACs. SERC policies do not require an annual progress report.

Mr. Giomi made a motion to recommend NAC 459.99176 be deleted from the NACs. Mr. Farr seconded the motion which was approved unanimously.

NAC 459.99177(1) – Authorization and procedure to revise use of money after allocation.

This NAC was addressed earlier in this agenda.

Mr. O'Brien made a motion to recommend changing the word "may" to "must" or "shall" before the word submit in NAC 459.99177(1). Mr. Farr seconded the motion which was approved unanimously.

NAC 459.99177(2) – Authorization and procedure to revise use of money after allocation.

A discussion ensued as to whether a provision should be added for grant changes less than 10%.

This item was addressed under NAC 459.99156(2) of this agenda. No recommendation was made.

No action was taken.

NAC 459.99177(3) & (4) – Authorization and procedure to revise use of money after allocation.

This item was addressed under NAC 459.99156(3) of this agenda.

Mr. Farr made a motion to recommend deletion of the word "hearing" and add "meeting" to NAC 459.99177(3). Mr. O'Brien seconded the motion which was approved unanimously.

Mr. Farr amended his motion to include deleting NAC 459.99177, 4 regarding appeals as this is duplication of NAC 459.99156(3). Mr. O'Brien seconded the motion which was approved unanimously.

NAC 459.99189 – Appeal by local emergency planning committee or state agency of grant-related decision.

SERC Policy 8.13 changed to include appeals relating to program decisions as well as grant related decisions. The NACs need to be changed to reflect the policy change.

Mr. Giomi made a motion to recommend NAC 459.99189 be changed to include appeals relating to program decisions. Mr. Farr seconded the motion which was approved unanimously.

The Committee took a break at 10:45 a.m.

The Committee reconvened at 10:55 a.m.

- B. *Discussion/Review/Recommendation of SERC policies 8.1 through 8.13 and definitions/glossary for possible migration to the NACs. For more information regarding some of the possible SERC policies to be discussed by these committee, see Attachment A which is attached to this agenda.**

SERC Policy 8.2a – License Plate Funding Grant Application, Grant Awards

The committees discussed whether grant evaluation factors need to be included in the NACs, resulting in a negative response.

No action was taken.

SERC Policy 8.1 – Hazardous Materials Response Plan and Exercise

The committees discussed whether the requirement of an annual (if updated) Level of Response Questionnaire needs to be included in NACs. Mr. O'Brien suggested it did not need to be added to the NACs. Mr. Giomi concurred.

No action was taken.

The committees discussed whether LEPC approval of plan updates needs to be included in the NAC. Mr. O'Brien stated this had already been addressed under NAC 459.991.

No action was taken.

The committees discussed whether the requirement of submission of exercise or incident reports within 60 days needs to be in the NACs. Mr. O'Brien recommended no action be taken.

No action was taken.

SERC Policies 8.1 and 8.2 – Hazardous Material Response Plan and Exercise; Grant Application, Grant Awards

The committees discussed whether the ability to request a planning grant when the plan is the only noncompliant administrative requirement needs to be included in the NACs. No recommendation was made.

No action was taken.

SERC Policy 8.2 – Grant Application, Grant Awards

The committees discussed whether the limit for funding State agencies from funds remaining after funding of LEPCs, up to 20% of the original available amount, needs to be included in the NACs. No recommendation was made.

No action was taken.

SERC Policy 8.5 – Funding of Grants

The committees discussed whether the ability to deny requests for advance funding, if the LEPC has continually failed to comply with policy, needs to be in NAC. Mr. O'Brien recommended no action be taken.

No action was taken.

Mr. O'Brien made a motion all recommendations whether modifications or no action be brought before the SERC at its next meeting for concurrence. Mr. Giomi seconded the motion which was approved unanimously.

C. Discussion regarding the Emergency Preparedness Community Right-To-Know Act (EPCRA) and State law as they relate to confidentiality of each response plan submitted by each Local Emergency Planning Committee (LEPC)

Mr. Reagan stated this issue was brought to the SERC's attention with one of the county's legal staff looking at NRS 239C, which has a requirement of confidentiality for specific information versus the Federal requirement for public information and disclosure of hazardous materials. A discussion ensued.

Ms. Pabón stated this item was as a result of a Planning and Training Subcommittee meeting, therefore, it was open public record that Washoe County's District Attorney advised not to disperse any emergency operation plans, and not to place them on the county agenda for approval because it will then become public record. The representative at the Subcommittee meeting asked if SERC could assist in clarifying NRS 239C. EPCRA was identified as being the prevailing law regarding hazardous materials emergency response plan. No recommendation was made.

VI. Public Comment

There was no public comment.

VII. *Adjournment

Mr. O'Brien made a motion to adjourn the meeting at 11:07 a.m.